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ANTHONY P. SCIARRILLO
ATHINA LEKAS CORNELL
JEFFREY R. MERLINO
DENNIS MCKEEVER
LISA M. GINGELESKIE
JENNIFER A. OSBORNE
PAUL E. GRIGGS
JOSHUA S. SKLARIN

edlawgroup@lindabury.com

Westfield Office

P. O. Box 2369
53 Cardinal Drive
Westfield, NJ 07091
(TEL) 908-233-6800
(FAX) 908-518-2967

Summit Office

480 Morris Avenue
Summit, NJ 07901
(TEL) 908-273-1212
(FAX) 908-273-8922

Rumson Office

20 Bingham Avenue
Rumson, NJ 07760
(TEL) 732-741-7777
(FAX) 732-758-1879

www.lindabury.com

Appellate Court Upholds State Board as Final Arbiter of School Law Controversies

By Silvia Courtney

In a decision upholding the findings of the State Board of Education (“State Board”), on October 8, 2009, a New Jersey Appellate Court held that the State Board was within its power as the “final arbiter of school law controversies” to reduce the penalty imposed by the Commissioner of Education (“Commissioner”).

The Administrative Law Judge (“ALJ”) originally heard the case. She found that Ardeena Long, a teacher in the State-Operated School District of the City of Paterson, had removed and photocopied material from her personnel file, lied about doing so, stole the sign-out book, made personal photocopies, conducted personal business during instructional time, and removed her supervisor’s notes regarding her performance from the supervisor’s personal portfolio. Nonetheless, the ALJ recommended only a six-month suspension without pay because the teacher’s actions did not involve or negatively impact her students and, during her lengthy career (since 1980), she had had only one other disciplinary action (in 1985).

In reviewing the ALJ’s recommendation, the Commissioner accepted her findings of fact. However, finding that the School District had proven various charges of “unbecoming conduct that amply demonstrated her unfitness to discharge her duties as a teacher,” the Commissioner concluded Ms. Long should be removed from her tenured position. The Commissioner placed particular import on her “flagrant” dishonesty and the fact that even a single act of theft, regardless of the value of the stolen item, demonstrated either her inability to recognize the truth or her complete disregard for it.

The State Board reviewed the Commissioner’s decision and also accepted the findings of fact. It disagreed, however, with the Commissioner’s penalty and upheld the original assessment made by the ALJ. The State Board evaluated the nature of the sustained charges and the positive reviews Ms. Long had received over the course of her lengthy career and found that removal from employment was an “unduly harsh penalty” under the circumstances.

The Appellate Court upheld the State Board’s decision. Absent a decision that is “arbitrary or capricious ... lacks support in the record ... or violates legislative policies,” the Court saw no (cont’d ▶)

grounds to vacate it. The Court rejected contentions that the State Board was entitled to less deference in light of subsequent Legislative efforts to streamline the adjudication process. At the time it rendered its decision, the Court said, the State Board was the final arbiter of school law controversies. As such, the deference due to the State Board's decisions "is not diluted."

In evaluating the penalty, the Court found the issue to be within the expertise of the State Board, falling within the "expertise and specialized knowledge" of its specialized field." The Court held that a penalty imposed by an agency should be modified only "when necessary to bring the agency's action into conformity with its delegated authority." Further, it held that the Court should alter the agency decision only when it is satisfied that "the agency has

mistakenly exercised its discretion or misperceived its own statutory authority." The Court found no evidence that the State Board misapplied its power. Citing the State Board's vast experience in like matters, its consideration of the facts in the case and its consideration of the entire course of Ms. Long's career, the Court found that the penalty imposed by the State Board was not disproportionate to the offense and affirmed the State Board's decision.

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